

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

DAVID K. GIBSON,

Claimant,

v.

CENTRAL PAVING COMPANY,

Employer,

and

LIBERTY NORTHWEST INSURANCE  
CORPORATION,

Surety,

Defendants.

**IC 04-010002**

**ORDER**

Filed: January 6, 2006

Pursuant to Idaho Code § 72-717, Referee Rinda Just submitted the record in the above-entitled matter, together with her proposed findings of fact and conclusions of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendation of the Referee. The Commission concurs with this recommendation. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant's deep venous thrombosis is an occupational disease as that term is defined by Idaho Code § 72-102(21)(a);
2. Claimant's deep venous thrombosis was caused by his work as a driver for Employer;
3. Claimant's deep venous thrombosis was acute, and not chronic;

4. Claimant's deep venous thrombosis is a compensable occupational disease pursuant to Idaho Code § 72-439;

5. Claimant's average weekly wage is \$497.11;

6. Claimant is entitled to an award of attorney fees pursuant to Idaho Code § 72-804. Unless the parties can agree on an amount for reasonable attorney fees, Claimant's counsel shall, within twenty-one (21) days of the entry of the Commission's decision, file with the Commission a memorandum setting forth the amount and basis for attorney fees requested in this case, a copy of the fee agreement executed by Claimant and his attorney, and an affidavit in support of the claim for fees. The memorandum shall be submitted for the purpose of assisting the Commission in discharging its responsibility to determine reasonable attorney fees in this matter. Within fourteen (14) days of the filing of such documentation, Defendants may file a response to Claimant's information. If Defendants object to any representation made by Claimant's counsel, the objection must be set forth with particularity. Within seven (7) days after Defendants' counsel files the above-referenced response, Claimant's counsel may file a reply. The Commission, upon receipt of the foregoing pleadings, will review the matter and issue an order determining attorney fees.

7. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 6th day of January, 2006.

INDUSTRIAL COMMISSION

Dissent without comment  
Thomas E. Limbaugh, Chairman

/s/\_\_\_\_\_  
James F. Kile, Commissioner

/s/\_\_\_\_\_  
R.D. Maynard, Commissioner

ATTEST:

/s/\_\_\_\_\_  
Assistant Commission Secretary

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 6th day of January, 2006, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following persons:

DARIN G MONROE  
PO BOX 854  
BOISE ID 83701-0854

MONTE WHITTIER  
PO BOX 6358  
BOISE ID 83707-6358

djb

/s/\_\_\_\_\_